| INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL | |
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| **Chapter 5:** General Case Management | **Effective Date:** May 1, 2008 |
| **Section 5:** Alleged Fathers | **Version:** 1 |

| **POLICY [NEW]** | **OLD POLICY: N/A** |
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The Indiana Department of Child Services (DCS) will refer a child's case to the local prosecuting attorney's office for the filing of a paternity action, if the following conditions apply:
1.  The child is born out of wedlock and is alleged to be a child in need of services;
2.  The child is under the supervision of the department;
3.  The identity of the alleged father is known; and
4.  The local DCS office reasonably believes that establishing the paternity of the child would be beneficial to the child.  See Related Information for further details.

DCS will offer services to an alleged father while he is awaiting the results of paternity testing.

DCS may recommend placement of a child with an alleged father or the family member of an alleged father until paternity has been established.

  **Note**:  Paternity may be affirmed through a paternity affidavit or DNA testing.

Code References
1.  IC 31-34-15-6: Filing of paternity action by local prosecuting attorney's office


| **PROCEDURE** |
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The Family Case Manager (FCM) will:
1.  Conduct a search using the Indiana Child Welfare Information System (ICWIS)/Indiana Support Enforcement Tracking System (ISETS) interface to determine if there is an existing child support order, if the child's parents are divorced, and/or if paternity is established.

    **Note:**  The search process requires an overnight run for completion, so it is imperative that the FCM check the following day for results of the search.

If an order exists, the FCM will:
1.  Obtain a certified copy of the order from the clerk in the county in which the order is in effect;
2.  File the order in the Child in Need of Services (CHINS) court; and
3.  Ensure the child support is temporarily assigned to the local DCS office for the duration of the child's out-of-home placement.

The CHINS court will:
1. Properly assume temporary jurisdiction of the order;
2. Notify the court where the child support order exists of the assumption of control over the order; and
3. Clearly state in the order that the order is a "**child support**" order.

   **Note:** This establishes an ongoing commitment to support the child and is not to be confused with a reimbursement order (discussed below). The child support order will establish DCS as the payee unless the child is receiving Temporary Assistance to Needy Families (TANF) benefits. However, it is important to ensure that all collections be processed through the appropriate foster care account (i.e., if the child is IV-E eligible) as maintained on the ISETS system and <u>not</u> sent directly to the local DCS office. If the child receives TANF benefits, see the exception in related information for additional information regarding TANF benefits. Once a child support order is established, all enforcement activities are available through the IV-D office.

If no order exists, the FCM will:
1. Ensure that a <u>Application for Title IV-D Support Services SF 34882</u> is filed with the local IV-D office, services include state and federal Parent Locator Service, establishment of paternity and/or enforcing a support obligation (i.e., including health insurance coverage); and
2. Ensure that a support order is established for the pre-CHINS noncustodial parent;

If the paternity test results are negative for an alleged father, DCS will:
1. Inform all parties of the test results;
2. Consider continuing services at low or no cost through Community Partners, etc., to the alleged father, if he chooses to remain involved in the child's life as a potential de facto custodian placement. See Related Information for further details; and
3. Allow the individual to participate in case planning if he chooses to be involved and has the consent of the child's mother.

If the paternity test results are positive, DCS will:
1. Inform all parties of the test results;
2. Ensure the father is participating in services or referred to services; and
3. Include the father in the case planning process.

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**PRACTICE GUIDANCE**

1. N/A

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**FORMS AND TOOLS**

1. <u>Application for Title IV-D Support Services SF 34882</u>

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 RELATED INFORMATION
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**ISETS**
ISETS is the database used by the IV-D Prosecuting Attorney and County Clerk to enter and monitor child support orders and payments. This search is conducted through the entire state ISETS system. This will allow the FCM to gather information regarding child support regardless of the county where the order exists.

ISETS is most helpful in providing identifying absent parent information including demographics, employment, the amount of court-ordered child support, the court cause number and the last payment date. Through the ICWIS/ISETS interface, a referral record of IV-E eligible children will be sent to ISETS. Referrals will also be sent when the child's placement changes, when the removal episode has ended, and whenever a history correction is completed on the ICWIS FC History screen changing the IV-E FC status.

If the child is placed with a specified relative and this specified relative opts to receive TANF benefits for the child instead of the foster care per diem, the child support is to be assigned differently than described above. Federal law requires that as a condition of eligibility for TANF benefits (formerly known as AFDC), applicants are required to assign their rights to child support to the State of Indiana and to participate in the Title IV-D Child Support Program. This Federal law supersedes the Indiana law indicated above. The TANF child's support will automatically be assigned through the Indiana Client Eligibility System (ICES) system upon application for TANF and any support paid on behalf of this child will go toward the repayment of TANF benefits received by the child.

**Determining if establishing paternity is in the child's best interests**
The following circumstances are examples of when it may be contrary to the child's best interest to establish paternity, including but not limited to:
1. Adoption Proceedings are pending in court;
2. The child was conceived as a result of incest or rape; or
3. A court determination that parents would be unable to comply with an established reunification plan due to the financial hardship caused by paying child support.

**Alleged Father**
A person who is asserted to be the father of a child, or who claims to be the father of a child, and a paternity action has been filed in court.

**Putative Father**
A person who is asserted to be the father of a child, or who claims to be the father of a child, and a paternity action has <u>not</u> been filed in court.

**Adjudicated Father**
A man who has been finally determined by a court to be the legal father of a child.

**Non-Custodial Parent**
A person who does not have legal or primary physical custody of the child.

### De facto Custodian
"De facto custodian" means a person who has been the primary caregiver for, and financial support of, a child who has resided with the person for at least:
1. Six (6) months, if the child is less than three (3) years of age; or
2. One (1) year, if the child is at least three (3) years of age.

Any period after a child custody proceeding has been commenced; may not be included in determining whether the child has resided with the person for the required minimum period. The term does not include a person providing care for a child in a resource family home.